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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 STANLEY GREEN,

No. CIV S-04-1835-MCE-CMK-P

12 Petitioner,

13 vs.

ORDER

14 JAMES YATES, et al.,

15 Respondents.  
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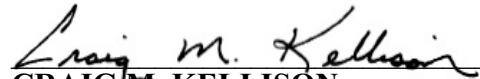
17 Petitioner, a state prisoner proceeding with appointed counsel and in forma  
18 pauperis, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending  
19 before the court is respondents' motion to dismiss (Doc. 28), filed on February 6, 2006.  
20 Respondents' motion is based on the recent death of petitioner, which has been established to the  
21 court through documents attached to the motion. The death of the petitioner renders a habeas  
22 action moot. See Dove v. United States, 423 U.S. 325 (1976) (per curiam) (dismissing certiorari  
23 petition because petitioner had died). Therefore, dismissal is appropriate.

24 Based on the foregoing, the undersigned recommends that this petition be  
25 dismissed.

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1           These findings and recommendations are submitted to the United States District  
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
5 Findings and Recommendations." Failure to file objections within the specified time may waive  
6 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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8 DATED: April 6, 2006.

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11 **CRAIG M. KELLISON**  
12 UNITED STATES MAGISTRATE JUDGE  
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